

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF COMMERCE,
et al.,

Defendants.

No. 8:18-cv-1041-GJH

LA UNIÓN DEL PUEBLO ENTERO,
et al.,

Plaintiffs,

v.

WILBUR L. ROSS, in his official capacity as
Secretary of Commerce, *et al.*,

Defendants.

No. 8:18-cv-1570-GJH

NOTICE

Defendants hereby notify the Court of a recent filing in *Common Cause, et al. v. David Lewis, et al.*, 18-cv-14001 (N.C. Super. Ct.), the North Carolina redistricting case through which Plaintiffs obtained the alleged newly discovered evidence purportedly extracted from Dr. Thomas Hofeller's hard drives and thumb drives. *See* Matthews Decl. ¶¶ 3, 9, 13, ECF 167-1. The filing raises serious questions about whether its disclosure was unlawful, whether any of it is privileged or proprietary, and whether the lawyers who solicited the disclosure violated their ethical obligations. *See, e.g.*, Attachment at 4.

Defendants take no position on these matters because they learned of this filing through media reports and have no knowledge about the assertions and arguments it advances. Plaintiffs in the North

Carolina redistricting case will have an opportunity to respond, and the North Carolina court may conduct additional proceedings. Defendants are providing this information to the Court because it underscores the prejudice to Defendants in upending this case at the eleventh hour based on inadmissible evidence of uncertain provenance that (as explained in Defendants' opposition and surreply) does nothing to support Plaintiffs' claims. Plaintiffs ask the Court to provide relief based on an evolving, *ad hoc* evidentiary process conducted through last-minute emergency litigation and media reports in this extensively-litigated case. The Court should decline that request.

DATED: June 19, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

JAMES M. BURNHAM
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Director, Federal Programs Branch

JOSHUA E. GARDNER
Special Counsel, Federal Programs Branch

/s/ Stephen Ehrlich
GARRETT COYLE
STEPHEN EHRLICH
COURTNEY ENLOW
MARTIN M. TOMLINSON
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, DC 20005
Tel.: (202) 305-9803
Email: stephen.ehrlich@usdoj.gov

Counsel for Defendants